

[REDACTED]

DOCKET FILE COPY ORIGINAL
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAR 22 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Billed Party Preference)
for 0+ InterLATA Calls)

CC Docket No. 92-77
Phase I

COMMENTS

One Call Communications, Inc., d/b/a OPTICOM ("Opticom"), ^{1/} by its attorneys and pursuant to the Commission's Order in this proceeding ^{2/} and Section 1.429(f) of the Commission's Rules, ^{3/} hereby comments on the petitions for reconsideration of the Report and Order and Request for

-
- 1/ Opticom is an Operator Service Provider ("OSP") headquartered in Carmel, Indiana. Opticom receives a significant number of interexchange carrier ("IXC") proprietary calling card calls. Consequently, Opticom cannot process such calls but they cause substantial, unreimbursed handling costs.
- 2/ Petitions for Reconsideration and Clarification and Application for Review of Actions in Rulemaking Proceedings, 58 Fed. Reg. 12364-65 (March 4, 1993).
- 3/ 47 C.F.R. § 1.429(f) (1993).

No. of Copies rec'd
List A B C D E

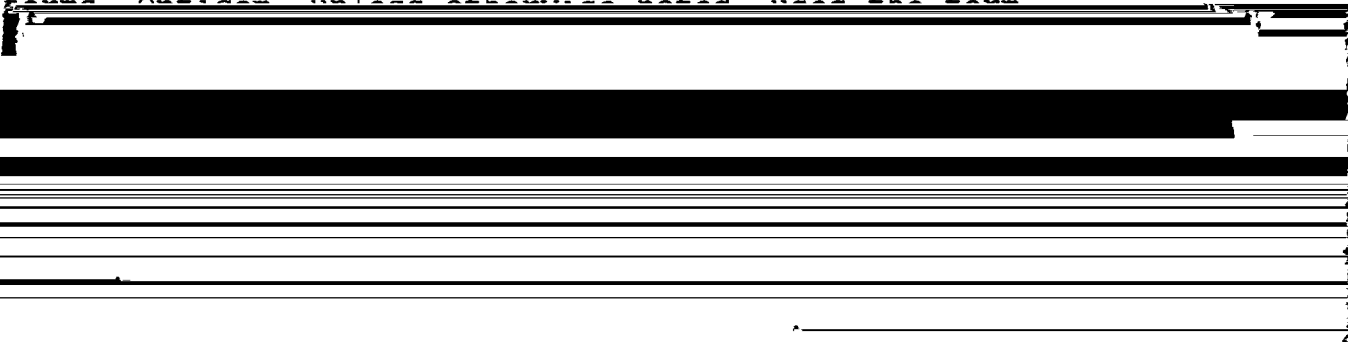
044

Supplemental Comment, 7 FCC Rcd 7714 (1992) ("CIID Card Decision") in the above-referenced docket.^{4/}

Introduction and Background

Opticom has been an active participant in this proceeding, filing comments in opposition to the Commission's billed party preference proposal^{5/} and in support of a proposal to compensate OSPs for transferring 0+ calls to proprietary card issuers.^{6/} Opticom maintains the positions set forth in its previously filed pleadings and submits these comments in support of "0+ public domain."^{7/}

In the CIID Card Decision, the Commission acknowledged that OSPs have been severely damaged by AT&T's unilateral decision

-
- 4/ Petitions for Reconsideration were filed by The Competitive Telecommunications Association ("CompTel"), International Telecharge Incorporated ("ITI"), LDDS Communications, Inc. ("LDDS"), MCI Telecommunications Corporation, PhoneTel Technologies, Inc., Polar Communications, Value-Added Communications, Inc. and Southwestern Bell Telephone Company ("SWBT"). On March 9, SWBT filed Comments regarding the Petitions ("SWBT Comments"), and, on March 11, 1993, AT&T filed an Opposition to the Petitions ("AT&T Opposition").
- 5/ See Opticom Comments filed July 7, 1992 ("BPP Comments") and Reply Comments filed on August 27, 1992.
- 6/ See Opticom Comments filed December 14, 1992 and Reply Comments filed January 6, 1993.
- 7/ Although "0+ public domain" proposals have taken various
- ~~forms. Opticom, unless otherwise noted, uses the term~~
- 

to issue a proprietary calling card.^{8/} When AT&T CIID cardholders dial 0+ from a telephone presubscribed to a non-AT&T OSP and the call is not completed, the OSP incurs local access charges, live operator expenses and card validation fees.^{9/} The OSP also incurs the wrath of frustrated customers and the consequent loss of customer goodwill.^{10/} No party questions these findings.^{11/} More importantly, however, the consumer is inconvenienced, confused and frustrated by proprietary cards in general and by AT&T's CIID card in particular.^{12/}

A consumer wishing to use a proprietary card issued by one carrier at a telephone presubscribed to another carrier must either dial an access code or locate a telephone presubscribed

^{8/} 7 FCC Rcd at 7720 (¶ 25) (AT&T's "competitors are forced to devote their facilities to uncompleteable and therefore unbillable CIID cards calls. Thus, the costs incurred in processing such calls cannot be recovered from those causing the costs to be incurred").

^{9/} Id. at 7720 n.45.

^{10/} Id. at 7720 (¶ 25).

^{11/} AT&T argues that its issuance of CIID cards is "completely consistent with the use of 0+ access" at telephones presubscribed to AT&T. AT&T Opposition at 5. This observation is irrelevant because OSPs are complaining about CIID 0+ calls made at telephones presubscribed to non-AT&T OSPs.

^{12/} Cf. 7 FCC Rcd at 7723 (¶ 45).

to the issuing carrier.^{13/} Thus, and irrespective of the competitive effects attendant to proprietary cards, the public is hurt by the Commission's finding in this matter whereby such cards prevent the validation and processing of calls from any and all telephones on a 0+ basis.

The Commission also found that 0+ public domain as supported by Opticom^{14/} is not in the public interest because proprietary cards "are a useful vehicle for permitting consumer choice of carrier."^{15/} The Commission continued by claiming that customers can carry both proprietary and non-proprietary cards which the Commission claimed will "maximize" the consumer's "range of choice."^{16/} The Commission then assumed, but again without any foundation, that the mere possession of a CIID card is evidence that the cardholder has chosen AT&T as the preferred carrier and that 0+ public domain

^{13/} Ironically, when mentioning AT&T's threat to instruct its CIID cardholders to dial an access code, the Commission states that AT&T "would force" such cardholders "to dial extra digits." 7 FCC Rcd at 7723 (¶ 45).

^{14/} See supra note 7.

^{15/} 7 FCC Rcd at 7723 (¶¶ 47-48).

^{16/} Id. at 7723 (¶ 47). See also, id. at 7723 (¶ 48) where the Commission states that AT&T CIID cardholders may use "a competing OSP . . . by charging the call to another calling, credit, or charge card, or to their home number, or collect."

would involve "significant structural changes to the current operator services market."^{17/}

In short, the Commission, after finding that access codes inconvenience the calling public but after ignoring the inconvenience of multiple cards, adopts a consumer educational approach based on unsupported conclusions and assumptions that forces the public to use access codes or to seek another telephone. Opticom submits that the Commission erred in failing to adopt 0+ public domain.

Argument

Opticom supports the Petitioners that argue in favor of 0+ public domain.^{18/} As stated above, however, Opticom would refine the proposal to require AT&T to open its CIID database to OSPs regardless of whether AT&T requires CIID customers to

There is recent precedent for 0+ public domain.^{22/} In the LEC Card Practice Order, the Commission directed local exchange carriers ("LECs") to provide IXCs non-discriminatory access to LEC joint use card validation data and to LEC screening data. The purpose of the Commission's action was to "prevent LECs from discriminating among IXCs in the validation process."^{23/} The Commission found that "LECs have a virtual monopoly" over validation data and that "access to validation and screening services is necessary as a practical matter to enable interexchange carriers to provide many interstate services, primarily operator services."^{24/} Therefore, the Commission directed the LECs to open up their joint use card validation and LEC screening databases.^{25/}

22/ See In the Matter of Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, 7 FCC Rcd 3528 (1992 ("LEC Card Practice Order"). See also In the Matter of Cincinnati Bell Telephone Co., 6 FCC Rcd 3501 (1991) (pet. for recon. pending).

23/ 7 FCC Rcd at 3530 (¶ 8).

24/ Id. at 3532 (¶¶ 25-26).

25/ Id. at 3547 (¶ 98).

The reasoning of the LEC Card Practice Order applies with equal force to AT&T's CIID database.^{26/} AT&T holds a dominant position in the operator services market.^{27/} Validation of CIID cards is necessary for OSPs to provide interexchange service universally. Thus, as in the case of LEC joint use cards, the Commission should direct AT&T to open its CIID database so that OSPs can screen, validate and bill CIID calls.

Opticom's approach is also technically feasible. Indeed, the MHAs and the agreements with GTE Airfone and Alascom are evidence of this fact.^{28/} AT&T's CIID database could be "dumped" into the databases accessed by LIDB such as those used

26/ It is inconsequential that the LEC Card Practice Order pertained to LECs or to joint use cards if the functions of assigning card numbers and validation are common carriage or incidental to common carriage. Cf. In the Matter of Cincinnati Bell Telephone Company, 6 FCC Rcd 3501 (1991). This irrefutable conclusion, of course, also raises the prospect that AT&T's actions are unlawfully discriminatory in violation of Section 202(a) of the Communications Act, 47 U.S.C. § 202(a) because it not only offers CIID card validation under Mutual Honoring Agreements ("MHAs"), which, contrary to the Commission's finding in this matter, 7 FCC Rcd at 7726 (¶ 63), involve interstate calls, see 7 FCC Rcd at 3534 (¶ 34) et. seq., and by an agreement with GTE Airfare that also includes interstate calls but the actions are discriminatory between AT&T CIID cardholders and IXC's.

27/ See In the Matter of Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd 5880, 5907 (1991) (subsequent history omitted). See also, 7 FCC Rcd at 7717 (¶ 13 and n.21) and 7719 (¶ 21 and note 40).

28/ 7 FCC Rcd at 7723 n.80. See AT&T Opposition at p.11 n.27.

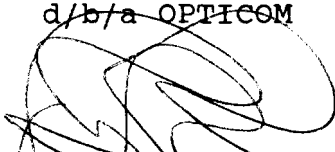
for joint use cards. SWBT, however, asserts that 0+ public domain is not technically feasible because necessary signalling technology is not available for IXCs to determine how a customer dials calls (i.e., 0+ vs. access code).^{29/} This is a red-herring^{30/} because such information is not required for CIID calls.

Conclusion

The Commission erred in rejecting 0+ public domain. Opticom submits that the Commission should reconsider its decision and permit OSPs to access AT&T's CIID database to screen, validate and bill CIID 0+ calls.

Respectfully submitted,

ONE CALL COMMUNICATIONS, INC.,
d/b/a OPTICOM



Randall B. Lowe
John E. Hoover
JONES, DAY, REAVIS & POGUE
1450 G Street, N.W.
Washington, DC 20005-2088
(202) 879-3939

March 19, 1993

^{29/} SWBT Comments at 3.

^{30/} Significantly, AT&T does not assert that 0+ public domain is technically infeasible and, indeed, opposes SWBT's Petition. AT&T Opposition at 13-14.

0+ public domain would maximize the public interest by reducing customer inconvenience, confusion and disruption which are the tantamount concerns of the Commission.^{20/} Under Opticom's proposal, CIID customers would not be required to dial any access code from any phone for an operator-assisted call. They would just dial "0+" and the called number.

~~Management would not have the option of requiring the CTR~~